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Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2018]

* Issued as received, in the language(s) of submission only.

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Human Rights Now Expresses Grave Concern over the Revocation and Invalidation of Human Rights Lawyers' Licences in China

Human Rights Now (HRN), a Tokyo-based human rights NGO, expresses grave concern about the situation of human rights lawyers in China whose licences have recently been revoked or invalidated by the Chinese government, continuing a nationwide crackdown against activist lawyers that began with intimidation and detention of lawyers on 9 July 2015, commonly referred as the 709 Crackdown. HRN calls on the government of China to release arbitrarily detained lawyers, reinstate arbitrarily revoked legal licenses, and end its harassment and crackdown of rights lawyers.

1. Human Rights Lawyers' Licenses Revoked or Invalidated as Arrests and Interrogations Continue

Three years ago, on 9 July 2018, it was reported that at least 321 lawyers, paralegals, law assistants, law firm staff, human rights activist and their family members have been "questioned, summoned, forbidden to leave the country, held under house arrest, residential surveillance, criminally detained or arrested," many facing charges of subversion and being labelled by state media as part of a "major criminal gang".1 Specifically, it was reported that, of this number:

- 1 lawyer is awaiting trial (Wang Quanzhang);
- 14 have been sentenced, 5 of which are serving their sentence (Wu Gan, Lawyer Zhou Shifeng, Hu Shigen, Lawyer Jiang Tianyong, Yin Xu'an), 3 serving a suspended sentence (Lawyer Li Heping, Gou Hongguo, Zhai Yanmin), 5 of which have completed their sentence (Liu Xing, Zhang Wanhe, Yao Jianqing, Li Yanjun, Wang Fang), and 1 of which was exempted from criminal punishment (Lawyer Xie Yang);
- 1 lawyer is under residential surveillance (Zhang Kai),
- 25 have seen their bail conditions lifted, 11 of which are lawyers (Wang Qiushi, Huang Liqun, Siu Muqing, Xie Yuandong, Li Zhuyan, Wang Yu, Bao Longjun, Ren Quanniu, Liu Sixin, Li Chunfu, Ren Quanniu).
- 43 are forbidden to leave the country,
- 265 have been temporarily detained, forcibly questioned or summoned, and 1 had their charges dropped.2

Even years later, the assaults have continued. For example, the lawyer Yu Wensheng had his legal license revoked and was detained on 19 January 2018 after posting two open letters online calling on the National People's Congress to take constitutional reforms and for Xi Jinping to be dismissed; he was later indicted for "inciting subversion of state power" and "disrupting public services".3

In addition, from October 2017 to July 2018, at least 16 human rights lawyers and 3 law firms across the country have had their licences revoked or invalidated by the government through administrative punishment, depriving them of their rights to practice law in China.4 In 2016, the Chinese government revised two regulations (Measures on the Administration of Law Firms and Measures on the Administration of Lawyers' Practice)5 which provide legal grounds for the Ministry of Justice to expand its arbitrary power to exert administrative sanctions against lawyers. The amended regulations mandate

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1 China Human Rights Lawyers Concern Group (CHRLCG), ["709 Crackdown"] Latest Data and Development of Cases as of 1800 7 July 2018. http://www.chrlawyers.hk/en/content/%E3%80%90%E2%80%9C709-crackdown%E2%80%9D%E3%80%91-latest-data-and-development-cases-1800-7-july-2018.Reuters, "In 2015, China crushed rights lawyers but activists are still organizing", 9 July 2017, https://www.reuters.com/article/us-china-rights-idUSKBN19U05T.

2 *Id.*

3 Reuters, "Detained Chinese rights lawyer charged with subversion of state power", http://www.reuters.com/article/us-china-rights/detained-chinese-rights-lawyer-charged-with-subversion-of-state-power-wife-idUSKBN1FJ0HO

4 CHRLCG, "A Global Joint Statement on the 3rdAnniversary of 709 Crackdown and China Human Rights Lawyers' Day", 9 July 2018. http://www.chrlawyers.hk/en/content/global-joint-statement-3rdanniversary-709-crackdown-and-china-human-rights-lawyers%E2%80%99-day#_ftn2.

5 Chinese Human Rights Defenders, "Revised Measures on Law Firms Further Curb Independence of Chinese Lawyers", 3 October 2016. https://www.nchrd.org/2016/10/chrb-revised-measures-on-law-firms-further-curb-independence-of-chinese-lawyers-921-103-2016/.

that law firms and individual lawyers must embrace the CCP and socialist system. In the same way, under Article 50 "law firms may be required to dismiss lawyers for conduct such as speaking online or commenting about cases publicly, or the law firms could have their license revoked,"6 which infringes lawyers' rights to freedom of expression under the Universal Declaration of Human Rights (UDHR) and Chinese civil and constitutional law. Notably, more than half of the lawyers affected by these measures are 709 detainees or defence lawyers of the 709 detainees.7

2. Legal duties and International Standards Violated or Implicated by the Government of China's Harassment of Lawyers

The harassment and arbitrary administrative sanctions imposed on lawyers, legal assistants, and law firms by Chinese authorities for the content of their work violates their freedom of expression, guaranteed by the Universal Declaration of Human Rights (UDHR) Article 19, and in cases of arbitrary detention, UDHR Article 9. The Constitution of the People's Republic of China Article 35 has also been violated according to the language of its terms that "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration."

This situation is also a flagrant violation of the United Nations Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990.8 Article 16, using the language of obligation, provides that:

> *Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.*

Article 23 of the Basic Principles also guarantees lawyers' right to freedom of expression and association, providing that:

> *Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.*

3. Call to Action

Human Rights Now expresses deep concern about the continuing harassment of rights lawyers in China and urges the Chinese government to:

- End its suppressive crackdown by releasing all detained human rights lawyers and activists and revoking their convictions;
- Withdraw any further decision in respect to the revocation and invalidation of human rights lawyers' licenses in compliance with the UN Basic Principles on the Role of Lawyers;
- Discharge the revocations of legal licenses already made and ensure the free exercise of the legal profession; and
- Cease all forms of political and professional repression and harassment against human rights lawyers, legal assistants, and law firms in compliance with relevant domestic legislation and international duties and principles.
- Review and revise its criminal procedure law and regulations, as well as laws and regulations on lawyers and law firms, to comply with international duties and standards on criminal due process and treatment of lawyers as

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6 *Id.*

7 CHRLCG, "Joint Statement", 7 June 2018, http://www.chrlawyers.hk/en/content/%E3%80%90-joint-statement-strongly-condemn-chinese-government%E2%80%99s-suppression-against-human-rights.

8 United Nations Basic Principle of the Role of Lawyers, https://www.ohchr.org/en/professionalinterest/pages/roleoflawyers.aspx.

provided in the UDHR, UN Basic Principles on Role of Lawyers, and the ICCPR which China has signed since 1998.